

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION

Official Minutes November 9, 2005

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A regularly scheduled meeting of the Missouri Highways and Transportation Commission held on Wednesday, November 9, 2005, in Jefferson City, Missouri, was called to order at 9:30 a.m. by Marjorie B. Schramm, Chairman. The following Commissioners were present: Bill McKenna, Vice Chairman, James B. Anderson, Duane S. Michie, Mike Kehoe, and David A. Gach.

The meeting had been called pursuant to Section 226.120 of the 2000 Revised Statutes of Missouri, as amended. The Secretary verified that notice of the meeting was posted in keeping with Section 610.020 of the 2000 Revised Statutes of Missouri, as amended.

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Pete Rahn, Director of the Missouri Department of Transportation, Rich Tiemeyer, Chief Counsel for the Commission; and Mari Ann Winters, Secretary to the Commission, were present on Wednesday, November 9, 2005.

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*"Department" or "MoDOT" herein refers to Missouri Department of Transportation.
"Commission" or "MHTC" herein refers to Missouri Highways and Transportation Commission.*

CLOSED MEETING

The agenda of the closed meeting was posted in keeping with Sections 610.020 and 610.022, RSMo., including the following statutory citations allowing the meeting to be closed:

1. Section 610.021(11), (12) – Specifications for competitive bidding, sealed bids, or negotiated contracts.
2. Section 610.021(1) – Legal actions and attorney-client privileged communications.
3. Section 610.021(3), (13) – Personnel administration regarding particular employees.

Immediately prior to closing its meeting, and upon motion by Commissioner Michie, seconded by Commissioner Gach, to convene in closed session, the Chairman asked for a voice vote of the members. The vote was as follows:

Commissioner Schramm, Aye
Commissioner McKenna, Aye
Commissioner Michie, Aye
Commissioner Anderson, Aye
Commissioner Kehoe, Aye
Commissioner Gach, Aye

whereupon the Commission closed its meeting.

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APPROVAL OF MINUTES, REGULARLY SCHEDULED HIGHWAYS AND TRANSPORTATION COMMISSION MEETING, OCTOBER 14, 2005 AND FAX BALLOT MINUTES OF SEPTEMBER 28, 20005

Upon motion by Commissioner Michie, seconded by Commissioner McKenna, the Commission unanimously approved the minutes of its October 14, 2005, regularly scheduled meeting and the fax ballot minutes of September 28, 2005. The Chairman and Secretary to the Commission were authorized and directed to sign and certify said minutes and to file same in the office of the Secretary.

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CONSENT AGENDA

Consent Agenda Process

In order to make the most efficient use of Commission meeting time and to ensure the
Highways and Transportation Commission 3 November 9, 2005, Meeting Minutes

Commission members are well informed on issues requiring their action, the staff prepares and submits to the Commission members, in advance of their meeting, internal memoranda consisting of advice, opinions, and recommendations related to the items on the Commission meeting agenda. Those items considered by the staff to be of a routine or noncontroversial nature are placed on a consent agenda. During the meeting, items can be removed from the consent agenda at the request of any one Commission member. The items that are not removed from the consent agenda are approved with a single motion and unanimous vote by a quorum of the members.

Minutes reflecting approval of items on the consent agenda are singly reported herein and intermingled with minutes reflecting action on related subjects that were openly discussed. Reference to "consent agenda" is made in each minute approved via the process described in the paragraph above. Minutes reflecting action on items removed from the consent agenda and openly discussed reflect the open discussion and vote thereon.

Consideration of November 9, 2005, Consent Agenda

Item number 6, "Medical and Life Insurance Plan: Actuarial and Consulting Contract" was removed from the November 9, 2005, consent agenda. Commissioner Gach abstained from item number 1, "Purchase of Real Property Interest from Commissioner Gach" and item number 9, "Report and Recommendation to Approve Final Order of Rulemaking 7 CSR 265-10.020, Licensing of Vehicles." Upon motion by Commissioner McKenna, seconded by Commissioner Michie, the remaining items on the consent agenda were unanimously approved.

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REPORTS OF COMMISSION COMMITTEES AND COMMISSION RELATED BOARDS

The Commission has two committees: Audit Committee and Legislative Committee. In addition, it elects Commission representatives to two boards: Missouri Transportation Finance Corporation Board of Directors and MoDOT and Patrol Employees' Retirement System Board of Trustees.

Audit Committee – Commissioner Michie reported that Debbie McCoy of BKD, MoDOT's independent auditing firm, had reviewed the Fiscal Year 2005 audit with the Audit Committee at its November 8, 2005, meeting. BKD issued an unqualified auditor's opinion for the fiscal year ending June 30, 2005. The committee also reviewed audit statistics and three internal audits.

Legislative Committee – Commissioner McKenna reported the following:

- Senator Jon Dolan resigned his senate seat to accept a position in the private sector. Commissioner McKenna expressed appreciation for Senator Dolan's efforts as chair of the Senate Transportation Committee.
- The Joint Committee on Transportation Oversight will meet on November 21, 2005, at which time Director Rahn will present MoDOT's annual accountability report.
- Governor Blunt, by executive order, established a State Retirement Consolidation Commission to examine the issue of consolidating the MoDOT and Patrol Employees' Retirement System with the Missouri State Employees' Retirement System. Commissioner Anderson, chair of the MoDOT and Patrol Employees' Retirement System, and Pete Rahn, MoDOT Director, have been appointed to serve on the 14-member commission.

MoDOT and Patrol Employees' Retirement System Board of Trustees – Commissioner Anderson reported the following:

- The State Retirement Consolidation Commission has been challenged with the task of developing recommendations for consideration by the General Assembly during the 2006 legislative session. The initial meeting of this group has not yet been scheduled.
- The retirement system received the "Public Pension Coordinating Council Standards Award."
- Evers & Company completed the Fiscal Year 2005 audit of the retirement system and reported no significant findings.
- The investment assets of the retirement system currently exceed \$1.5 billion. Investments experienced a 5.9% return for the first quarter of the fiscal year, and 17.5% for the last 12 months.

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REPORT REGARDING MHTC POLICY FOR MEMBERS TO REPORT POTENTIAL CONFLICTS OF INTEREST

The Chief Counsel presented to the Commission his recommendations to revise the Policy for Commission Members to Report Potential Conflicts of Interest. Proposed amendments: (1) reflect a legislative change to section 105.454 RSMo which raised the amount a public employee or official may receive from an agency in which he or she is an employee or has supervisory power over from \$1,500 to \$5,000 per year without competitive bidding; (2) advise the Governor's Director of Boards and Commissions, so he can in turn advise prospective members, regarding the possible negative financial impact of Commission service on Commission members; (3) reflect changes due to MoDOT reorganization; (4) formalize existing practices; and (5) clarify policy provisions and eliminate unnecessary details.

Via approval of the consent agenda, the Commission unanimously adopted the revised policy, which is printed in its entirety on pages 26-31.

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CHIEF ENGINEER HONORED

Director Pete Rahn congratulated Kevin Keith, Chief Engineer on his induction into the University of Missouri Civil Engineering Academy of Distinguished Alumni in recognition of his distinguished professional career.

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CHIEF FINANCIAL AND ADMINISTRATIVE OFFICER APPOINTED

Director Pete Rahn announced the appointment of Roberta Broeker to the position of Chief Financial and Administrative Officer effective October 24, 2004. Ms. Broeker had served as Acting Chief Financial and Administrative Officer since August 15, 2005, replacing Pat Goff, retired.

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MODOT FISCAL YEAR 2005 AUDITED FINANCIAL STATEMENTS

Deborah A. McCoy, Partner, BKD, LLP, reported that her firm had issued an unqualified opinion on MoDOT's financial statements; she emphasized that the financial statements and supporting documentation were prepared in accordance with the accounting principals.

Ms. McCoy briefly discussed the audit report and provided explanations of the content thereof. Ms. McCoy told the Commission that the MoDOT staff had readily responded to the auditors' requests for information and exhibited a professional attitude and good accounting knowledge.

Commissioner Michie emphasized the importance of a thoroughly completed audit for any business or governmental agency. He stated that the Audit Committee was well pleased with the work performed by BKD. Director Rahn stressed the importance of a clean audit on retaining a good credit rating and receiving favorable bond financing interest rates.

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2005 REPORT TO JOINT COMMITTEE ON TRANSPORTATION OVERSIGHT

On behalf of the Director, Roberta Broeker, Chief Financial and Administration Officer and Kevin Keith, Chief Engineer, presented MoDOT's 2005 Report to the Joint Committee on Transportation Oversight.

Kevin Keith reported that the appointment of Director Pete Rahn on September 15, 2004, coupled with voter approval of Amendment 3 in November 2004, resulted in the an extremely busy year for MoDOT and the largest five-year transportation program in MoDOT's history. He emphasized that even though the two events above occurred only one year ago, MoDOT implemented a Amendment 3 Smoother, Safer, Sooner Campaign that has allowed Missouri motorists to already experience improvements in the condition of state roadways.

Mr. Keith explained that Element 1 of the Smoother, Safer, Sooner Campaign (Smooth Roads Initiative) is ahead of schedule with 88 percent of that work under contract and within 5 percent of the staff's original estimates. Under Element 2, 55 major projects were accelerated; half of those are under contract. The third element added 38 major new projects to the Statewide Transportation Improvement Program, many of which will address severe capacity problems.

During 2005, motorists were faced with 1,000 active work zones. As a result, MoDOT is actively managing work zones by using message boards, websites to keep the citizens aware of lane closures and construction zones. In addition contactors are working during off peak travel times and at night to lessen the inconvenience to travelers.

Mr. Keith said that MoDOT had completely closed a road forty times in the past year in order to finish a project more quickly. He reported that motorists appear to prefer the shorter inconvenience caused by a road closure to the longer time required to construct improvements under traffic conditions.

Mr. Keith reported that in order to increase safety on Missouri interstate highways, guard cable is being installed in all medians that are less than 60 feet wide. These installations are complete or under contract on Interstate Route 70 and this effort is on-going on Interstate Route 44.

While Mr. Keith expressed pleasure with the large volume of work that has been or will be undertaken as a result of Amendment 3 and the recently approved federal transportation reauthorization bill, he articulated concern that Missouri continues to have many transportation improvement needs that cannot be addressed by these initiatives and other funding currently available for transportation.

Commission Anderson commended the staff for its outreach efforts with regional planning commissions, contractors, and other transportation stakeholder, which contribute to a more efficient, effective, and successful transportation program.

Commissioner McKenna commended Director Rahn and the staff for the outstanding innovation and hard work exhibited during the past 12 months to devise and implement the accelerated Amendment 3 Smoother, Safer, Sooner Program. He also encouraged the staff to work with the members of the legislature in an attempt to educate Missouri citizens about funding for state transportation improvements.

Upon motion by Commissioner Michie, seconded by Commissioner Anderson, the Commission, by unanimous vote of all members present, authorized the staff to present the 2005 Report to the Joint Committee on Transportation Oversight. The report will be accessible on MoDOT's Internet site and copies will be made available to the public upon request.

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MOVING MISSOURI FORWARD: LEVERAGING TRANSPORTATION TO ADVANCE ECONOMIC DEVELOPMENT

On behalf of the Director, Mara Campbell, Organizational Results Director, and Dr. Ernie Perry, Organization Performance Administrator, shared with the Commission MoDOT's joint effort with the Department of Economic Development to study the economic impacts of transportation improvements. Dr. Perry reported that every dollar MoDOT spends on the Smooth Roads Initiative returns more than four dollars to the state's economy.

Approximately four years ago MoDOT started to research the transportation/economic development connection. As a result, the staff is currently working jointly with the Department of Economic Development to evaluate future transportation projects through the REMI, Inc., economic model to better understand the impact of transportation improvements on the state's economy. This information will be used to evaluate future transportation improvement needs.

Commissioner Anderson, who has extensive economic development experience, commended the staff for recognizing the importance of transportation to economic development. He felt the economic development perspective had long been overlooked in transportation decision-making, and predicated that great ideas would come from this MoDOT/Economic Development partnership.

The Commission commended the MoDOT staff for their expertise in the economic development area and their efforts to work jointly with other governmental agencies to deliver the best outcome for the citizens of Missouri.

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PURCHASE OF COMMISSONER-OWNED PROPERTY

On behalf of the Director, Don Wichern, District 1 Engineer, requested authority to make an offer of just compensation of \$46,000 for 7.21 acres of property and 1.26 acres of temporary easement and \$150 for a 0.58-acre uneconomic remnant to Commissioner David Gach and his wife Theresa Gach. This property, identified as Parcel 7, is needed for Project J1S0834, Route AC, Buchanan County. The appraisal was prepared by a fee appraiser and reviewed by a MoDOT Right of Way Field Liaison Officer, who is a Missouri State General Certified Appraiser.

Via approval of the consent agenda, the Commission authorized the staff to make the offer to Commissioner Gach as requested above. Commissioner Gach abstained from voting.

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MEDICAL AND LIFE INSURANCE PLAN, ACTUARIAL AND CONSULTING CONTRACT

On behalf to the Director and the Medical and Life Insurance Plan Board of Trustees, Jeff Padgett, Manager of Employee Benefits, recommended approval of a three-year contract for actuarial and consulting services with Watson Wyatt Worldwide at a projected annual cost of \$50,000, depending on the hours of consulting services required. The cost of the semi-annual actuarial valuation will be \$36,000 for calendar year 2006.

After consideration and upon motion by Commissioner Anderson, seconded by Commissioner Michie, the Commission unanimously approved the recommendation.

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SCENIC BYWAY DESIGNATION, ROUTE 24, LAFAYETTE COUNTY

On behalf of the Director and the Scenic Byway Advisory Committee, Terry Sampson, Right of Way Director, recommended that the 20.4-mile section of Route 24 extending eastward from the junction of Route 24/Route 224 east of Lexington to the Lafayette/Saline County line be designated as a State Scenic Byway.

Via approval of the consent agenda, the Commission unanimously approved the recommendation.

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SCENIC BYWAY DESIGNAATION, HISTORIC ROUTE 66

On behalf of the Director, Terry Sampson, Right of Way Director, recommended that the Commission approve the designation of the approximately 310-mile Historic Route 66 corridor, as a State Scenic Byway. This corridor extends from the Kansas/Missouri State line northeastward to the Missouri/Illinois State line and follows multiple state routes.

Via approval of the consent agenda, the Commission unanimously approved the recommendation.

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KANSAS CITY SCOUT HARDWARD MAINTENANCE

On behalf of the Director, Beth Wright, District 4 Engineer, recommended approval of a three-year, bi-state agreement with the Kansas Department of Transportation (KDOT) and Capital Electric Line Builders, Inc., for the design, development and operations of a Kansas City Metropolitan Area Advanced Transportation Management System, known as Kansas City Scout. KDOT will be responsible for 44.75 percent of the \$3,465,289 total cost of the work anticipated by the contract.

Via approval of the consent agenda, the Commission unanimously approved the recommendation and authorized the Director, Chief Engineer, or Deputy Administrative Officer to execute the agreement.

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1717 MARKET PLACE TRANSPORTATION DEVELOPMENT DISTRICT, APPOINTMENT OF AN ADVISOR AND APPROVAL OF THE PROJECT

On behalf of the Director, Richard Walter, District 7 Engineer, and Roberta Broeker, Chief Financial and Administrative Officer, presented the following 1717 Market Place Transportation Development District proposed transportation projects:

1. Street improvements, including excavating and removal of existing public ways known as 15th Street and 17th Street, both east of Rangeline Road.
2. Reconstruction to public standards such ways and dedication of 15th and 17th Street, east of Rangeline Road as public streets, and expansion of 17th Street west of Rangeline Road.
3. Constructing to public road standards a connecting street between 15th Street and 17th Street, east of Rangeline Road.
4. Lighting of all streets in the district.
5. Signalization at 17th Street and Rangeline Road.
6. Storm and sanitary sewer, utility relocations, and street landscaping.

Via approval of the consent agenda, the Commission unanimously (1) appointed the District Engineer, District 7, as the Commission's advisor to the 1717 Market Place Transportation Development District's board of directors and (2) found the Commission's portion of the project to be a necessary and desirable extension of the state highways and transportation system, subject to the Development District making any revisions in the plans and specifications required by the Commission and subject to the Development District entering into a mutually satisfactory agreement with the Commission regarding development and future maintenance of the Project.

In keeping with the Commission's Delegation of Authority to Execute Documents, the Director, Chief Engineer, Chief Financial and Administrative Officer, or respective business unit director may execute the related agreements.

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PURCHASE EXCEEDING \$200,000 – ALUMINUM SIGN BLANKS

On behalf of the Director, Dave DeWitt, Deputy Administrative Officer, recommended approval of the purchase of aluminum sign blanks from Vulcan Aluminum, Foley, Alabama, at an

anticipated total cost of \$645,000. The sign blanks will be purchased “as needed” therefore, the actual cost will be determined by the actual number of sign blanks ordered. This contract will be valid until October 30, 2006.

Via approval of the consent agenda, the Commission unanimously approved the purchase and authorized the Director, Chief Engineer, Chief Financial and Administrative Officer, or Deputy Administrative officer to execute the contract documents.

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REPORT AND RECOMMENDATION TO APPROVE FINAL ORDERS OF RULEMAKING, 7CSR 10-24, DESIGN-BUILD PROJECT CONTRACTS

On behalf of the Director, Dave Nichols, Director of Program Delivery, reminded the Commission that at the August 12, 2005, meeting, the Commission authorized the filing and publication of proposed rules 7 CSR 10-24.010 through 7 CSR 10-24.413. The proposed rules were published in the *Missouri Register* on September 15, 2005; eleven comments were received from the public following publication. Mr. Nichols recommended approval of the final orders of rulemaking and requested authorization for the Secretary to the Commission to file the orders of rulemaking with the Joint Committee on Administrative Rules and the Office of the Secretary of State. He further recommended the Director or Chief Engineer be authorized to execute any document appropriate and necessary for completing the order of rulemaking process.

The Commission, by unanimous vote of all members present, approved the recommendations.

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REPORT AND RECOMMENDATION TO APPROVE FINAL ORDER OF RULEMAKING 7 CSR 265-10.020, LICENSING VEHICLES

On behalf of the Director, Jan Skouby, Motor Carrier Services Director, recommended approval of, and filing by the Secretary to the Commission, of the Order of Rulemaking, 7 CSR 12685-10.020, Licensing of Vehicles with the Joint Committee on Administrative Rules and the Office of the Secretary of State.

Via approval of the consent agenda, the Commission approved the recommendation and authorized the Director, Chief Engineer or Chief Financial/Administrative Officer to execute any document appropriate to initiate this rulemaking process. Commissioner Gach abstained from voting on this item.

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CONSIDERATION OF BIDS ON FEDERAL-AID AND STATE PROJECTS

Award of Contracts October 21, 2005, Bid Opening

On behalf of the Director, Dave Nichols, Director of Program Delivery, stated that bids for road and bridge improvement projects had been received on October 21, 2005.

Mr. Nichols, presented a tabulation of the bids received on all projects and recommended awards be made to the lowest responsive and responsible bidder noted below.

Route County Project <u>Call 101</u>	<u>Bid Amount</u>	<u>Non- Contractual Costs</u>	<u>Contractor</u>
T Worth J1S0831	\$1,266,448.15		Boone Construction Co. Columbia, MO
Call 104 HH Buchanan J1L0600B 138 Buchanan J1L0600C	287,889.89		Herzog Contracting Corp. St. Joseph, MO
Call 105 59 Andrew J1L0500A Bus. 71 Andrew J1L0600H A Andrew J1L0600I	665,578.09		Herzog Contracting Corp. St. Joseph, MO
Call 201 65 Livingston J2P0695 65 Livingston J2P0756	2,856,199.30	144.00	Emery Sapp & Sons, Inc. Columbia, MO
Call 202 6 Grundy	6,769,118.96	656.00	Norris Asphalt Paving Co. Ottumwa, IA

J2P0691
Park Roads
Grundy
J2L06CRO

Call 204

Park Roads
Adair/Macon
J2L06THO

231,710.32

W. L. Miller Company
Hamilton, IL

Call 302

Park Roads
Lincoln
J3L06CUI
U
Lincoln
J3L0600B
JJ
Lincoln
J3L0600C

420,287.03

G & M Concrete & Asphalt
Company, Inc.
Troy, MO

Call 401

435
Jackson/Clay
J4I1634

16,617,259.30

656.00

Clarkson Const./Comanche
Const. A Joint Venture
Kansas City, MO

Call 402

7
Jackson
J4P1719
7
Jackson
J4P1724
150
Jackson
J4S1725

1,254,616.59

432.00

Chester Bross Const. Co./
C. B. Equipment, Inc.
Hannibal, MO

Call 403 58 Cass J4P1720 W Johnson J4S1721 Z Lafayette J4L0600E	3,016,005.62	432.00	APAC-Kansas, Inc., Kansas City Division Overland Park, KS
Call 404 13 Ray J4P1723	552,359.25	144.00	APAC-Kansas, Inc., Kansas City Division Overland Park, KS
Call 405 35 SOR Clay J4I1734 A Clay J4S1736	959,923.80	288.00	APAC-Kansas, Inc., Kansas City Division Overland Park, KS
Call 406 29 SOR Platte J4I1728 29 SOR Platte J4I1733 C Platte J4L0600I 169 SOR Clay J4P1741	983,045.10	576.00	Superior Bowen Asphalt Company, L.L.C. Kansas City, MO
Call 501 BB Gasconade J6S0673	57,923.75		Boone Construction Co. Columbia, MO

Call 502 100 Gasconade	597,225.34	656.00	Boone Construction Co. Columbia, MO
Call 503 65 Benton J5P0865 65 Benton J5P0871	1,462,697.24	1,340.48	Hilty Quarries, Inc. Clinton, MO
Call 601 170 St. Louis J6I1714 170 St. Louis J6D0600P	5,873,904.27	1,312.00	Kozeny-Wagner, Inc. Arnold, MO
Call 602 67/340 St. Louis J6P1809	194,854.00	4,000.00	Gerstner Electric, Inc. Fenton, MO
Call 603 44 St. Louis J6I1713	7,574,166.95	800.00	Millstone Bangert, Inc. St. Charles, MO
Call 604 AC St. Louis J6P1725 AC St. Louis J6D0600T	4,605,000.00	1,824.00	Pace Construction Company St. Louis, MO
Call 701 HH Jasper J7S0759	957,304.77		APAC-Missouri, Inc. Columbia, MO

Call 702 160 Barton J7P0678 T Barton J7S0688	718,796.70		Boone Construction Company Columbia, MO
Call 703 90 McDonald J7S0380	1,600,604.36	656.00	Burk Bridge Co. Brookline, MO
Call 704 44 Lawrence J7P0781A 71 Vernon/Barton/Bates J7P0781B	854,067.77		Progressive Contractors, Incorporated St. Michael, MN
Call 705 59 Jasper/Newton J7P0801A	1,058,087.04	656.00	APAC-Missouri, Inc. Columbia, MO
Call 706 54 Vernon J7P0798	3,413,184.93	216.00	APAC-Missouri, Inc. Columbia, MO
Call 707 59/60 Newton J7P0801B	966,896.79	656.00	Leo Journagan Construction Co., Inc. Springfield, MO
Call 708 Bus. 71 Newton J7S0779A	1,336,761.43	656.00	APAC-Missouri, Inc. Columbia, MO
Call 709 171 Jasper J7P0801C	766,599.70		APAC-Missouri, Inc. Columbia, MO
Call 802 76 Taney J8P0828	217,412.20	18,108.00	Vance Brothers, Inc. Kansas City, MO

Call 803			
CC	143,907.60	17,048.00	Vance Brothers, Inc.
Webster/Laclede			Kansas City, MO
J8S0829			
Call 805			
Park Roads	566,002.13	11,268.00	Willard Asphalt Paving, Inc.
Laclede			Lebanon, MO
J8L06BEN			
J			
Laclede			
J8L0600E			
Call 806			
Various	833,731.20		Collins & Hermann, Inc.
Various			St. Louis, MO
J1D0694A			
Call X01			
57	2,379,861.60	656.00	Robertson Contractors, Inc.
Scott			Poplar Bluff, MO
J0I0660			
Total	<u>\$72,059,431.17</u>	<u>\$63,180.48</u>	

Construction speed limits conform to the standard work zone speed limits shown on Standard Drawing No. 616.10 as approved by the Commission.

Authority to Reject Bids

Mr. Nichols advised the Commission that bids were received October 21, 2005 for the following projects. He recommended the bids be rejected because they were considered excessive.

<u>Route</u>	<u>County</u>	<u>Project</u>
Call 102		
29	Buchanan/Platte	J1I0925
Call 103		
29	Clay/Platte	J1I0925A
Call 203		
70	Various	J2I0749
Call 407		
Various	Jackson/Platte/Clay	J4M0150
Call 901		
E	Oregon	J9L0600J

A	Oregon	J9L0700S
P	Oregon	J9L0700U
Call 902		
W	Howell	J9L0600K
E	Howell	J9L0600L
63/60/137	Howell	J9L0600M
Call X02		
34	Cape Girardeau	J0U0598B
Call X03		
72	Madison	J0P0851
Call X04		
Various	Various	J1D0693B

Mr. Nichols further advised the Commission that bids were received November 1, 2005, for the following project. He recommended the bids be rejected because they were considered excessive.

Route	County	Project
249	Jasper	J7U0436K

Commission Action

After consideration and upon motion by Commissioner McKenna, seconded by Commissioner Gach the Commission took the following action.

1. Awarded contracts to the lowest responsive and responsible bidders for bids received on October 21, 2005 as recommended and noted above. The Commission approved the allocation of funds covering the non-contractual costs for these projects as indicated on the above tabulation.
2. Rejected the bids on Calls 102, 103, 203, 407, 901, 902, X02, X03 and X04 for the October 21, 2005 letting.
3. Rejected the bids on Call 701 for the November 1, 2005 letting.

In keeping with the Commission's Delegation of Authority to Execute Documents, the Director, Chief Engineer, Chief Financial and Administrative Officer or Director of Program Delivery may execute the contracts awarded above.

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ROADWAY LOCATION AND DESIGN

On behalf of the Director, District Engineers informed the Commission that preliminary plans and exhibits for the following projects were presented at a public hearing.

**Route 7, Jackson County
From Wyatt Road to North of Colbern Road
Job No. J4S1745**

Public Hearing Held September 15, 2005

This proposed improvement provides for replacing the existing rural two-lane roadway with four 11-foot lanes of divided urban roadway with a 16-foot median, landscaping, and provisions for a city bicycle route on 8-foot shoulders. This project will have normal right of way. Access to all existing businesses will be maintained during construction. This project is 1.2 miles in length.

Ms. Beth Wright, District 4 Engineer, recommended that the Commission approve the design of the proposed project as presented at the public hearing.

**Route 32, Laclede County
From Cowan Drive to Tower Road in Lebanon
Job No. J8P0785**

Public Hearing Held August 23, 2005

This proposed improvement provides for widening the existing two-lane roadway to a three-lane roadway with a continuous center left-turn lane and four-foot shoulders between Cowan Drive and Tower Road. The project will have controlled access right of way. Traffic will be maintained on the existing lanes during construction. This project is 0.68 mile in length.

Mr. Dale Ricks, District 8 Engineer, recommended approval of the location and design as presented at the public hearing.

**Route I-55, Cape Girardeau County
Approximately 2.5 miles North of Route 34/61 Interchange
Job No. J0I0767**

Public Hearing Held October 6, 2005

This proposed improvement consists of an interchange to connect I-55 with LaSalle Avenue and East Main Street. East Main Street will be built by the City of Jackson. LaSalle Avenue will be built by the City of Cape Girardeau. Completion of both street connectors will be coordinated with the interchange construction. The interchange will be a diamond configuration with East Main Street going under I-55. This project will have fully controlled access right of way. I-55 traffic will be staged with the use of temporary crossovers. This project is 0.885 miles in length.

Mr. Mark Shelton, District 10 Engineer, recommended approval of the location and design as presented at the public hearing.

Route 67, Madison, Wayne and Butler Counties

**From Current four-lane section near Fredericktown
to the current four-lane section north of Poplar Bluff.
Additional location extends from existing four lanes
south of Poplar Bluff to 2.0 miles north of Arkansas state line
Job No. J0P0746**

**Public Hearings Held July 10, 2001, July 11, 2001, July 16, 2001,
August 1, 2005, August 2, 2005, and August 4, 2005**

This project upgrades the existing two-lane roadway to a four-lane divided roadway from south of Fredericktown to north of Poplar Bluff. No determination has been made south of Poplar Bluff. This project will have controlled access right of way. Traffic will be maintained through the existing roadway. The project is 72.1 miles in length.

Mr. Mark Shelton, District 10 Engineer, recommended approval of the location of the proposed improvements as presented at the public hearing.

After full consideration, of the favorable and adverse economic, social, and environmental effects of the recommended designs, the Commission via approval of the Consent Agenda unanimously found and determined the recommended designs would best serve the interest of the public and approved the recommendation.

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--REPORTS--

MoDOT FINANCIAL REPORT – FISCAL YEAR 2006

Roberta Broeker, Chief Financial and Administrative Officer, presented the Financial Report for the first quarter ended September 30, 2005 with budget and prior year comparisons.

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FINANCIAL ACCOUNTABILITY REPORT QUARTERLY REPORT

In compliance with Section 226.040.1, RSMo, Roberta Broeker, Chief Financial and Administrative Officer, presented the Quarterly Financial Accountability Report for the period ended September 30, 2005.

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**MHTC POLICY FOR COMMISSION MEMBERS TO REPORT POTENTIAL
CONFLICTS OF INTEREST**

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EXHIBIT 1 -- Summary of applicable ethics statutes.

(1) **General provisions:**

- (A) **Responsibility of MHTC members:** Conflict of interest may take many forms. The correct analysis of a potential conflict depends upon the facts disclosed. The applicable statutes are inconsistent and difficult to reasonably apply in some situations. Each commission member must be alert to any potential conflict of interest prohibited by statute. The responsibility for avoiding conflict of interest and complying with applicable statutes rests with individual commission members.
- (B) **Policy purpose:** The purpose of this voluntary policy is to assist commission members in complying with existing conflict of interest statutes, to avoid a potential conflict of interest, and, thus, avoid a potential violation of any statute and embarrassment for the affected individual, MoDOT and MHTC.
- (C) **Informal advisory opinions:** Upon request, the chief counsel will provide any commission member with an informal advisory opinion regarding any potential conflict of interest about which the commission member may have any question or concern.
- (D) **Governor's director of boards and commissions:** The commission secretary shall provide the governor's director of boards and commissions a copy of this policy six months prior to the scheduled expiration of any commission member's term of office, or immediately upon the inability of any commission member to complete his/her scheduled term of office for any reason. The purpose of this requirement is to assist the governor's staff in advising prospective commission members of: (1) the relevant conflict of interest statutes; (2) the application of some of the relevant statutes could cost prospective members money because MoDOT refrains from making purchases from any business in which a Commission member has a financial interest during the member's term of office (e.g., section 105.454(1) and (2) RSMo 2005 and/or section 226.090 RSMo 2000); and (3) MHTC's policy for commission members to disclose potential conflicts of interest.
- (E) **State Financial Interest Statements:** In addition to the required filing with the State Ethics Commission, commission members should file copies of their State Financial Interest Statements (also titled Personal Financial Disclosure Statement) required by Section 105.485 RSMo. 2000 with the commission secretary who will provide copies of such statements to the members of the conflicts committee and the chief counsel to aid the committee in assisting commission members in identifying potential conflicts of interest.
- (F) **Conflicts committee membership:** The standing conflicts committee of MoDOT will consist of the chief engineer, chief financial and administrative officer, commission secretary, and director of audits and investigations. The chief counsel, or his/her designated representative, shall serve as counsel to the committee.

- (G) **Reminder notices:** The commission secretary will provide an annual reminder notice to each commission member to update, if appropriate due to a changed circumstance, his/her Commission Member Disclosure Report described under paragraph (2)(A) below.
 - (H) **Annual review:** After each legislative session, the chief counsel will review the applicable statutes and, if appropriate, prepare a report for MHTC with recommendations regarding any proposed changes to this policy.
- (2) **Procedure for disclosure by all commission members of potential conflicts of interest (except attorney representation):**
- (A) **Commission Member Disclosure Report:** When a commission member is first appointed to MHTC and/or becomes aware that any of his/her activity and/or financial interest creates a potential conflict of interest, the member should file a written Commission Member Disclosure Report with the commission secretary that at a minimum includes: (1) the nature of the interest or activity; (2) the member's current employer(s), if any, and a list of all business entities, if any, in which the member is an officer and/or has any ownership or financial interest that may directly or indirectly do business with MHTC/MoDOT including the nature of the business or activity; (3) a list of all real estate located in Missouri in which the member individually or a business entity in which the member is an officer_has any ownership, leasehold, or other possessory or financial interest including the nature of such interest and the location (street address) of such real estate. Also, see paragraph (1)(E) above regarding State Financial Interest Report.
 - (B) **Distribution of Commission Member Disclosure Report:** The commission secretary will distribute the Commission Member Disclosure Report to the director, the chief counsel, all members of the conflicts committee, all MoDOT division directors and all district engineers.
 - (C) **Division and district review:** The MoDOT division directors and the district engineers shall review the Commission Member's Disclosure Report and provide written comments to the commission secretary regarding: (1) the effect of any potential conflict of interest on his/her area of responsibility; and (2) any additional information known by the staff that may have been overlooked by the Commission member in preparing the report.
 - (D) **Conflicts committee review and advice to director:** After reviewing the Commission Member's Disclosure Report and the staff comments, the conflicts committee shall advise the director of potential conflicts and the recommended course of action to be taken by MoDOT and the Commission member.
 - (E) **Discussion with member:** With director concurrence of the course of action, the chief counsel will discuss the matter with the affected commission member.

- (F) **Notice to member:** To assist the Commission members in identifying potential conflicts of interest, the director, commission secretary, chief counsel, and MoDOT division directors and district engineers will make every effort to alert the commission member if a disclosed item is related in any way to an agenda item before the commission for action. This alert will include projects located within one mile of any real property in which a Commission member individually or a business entity in which the member is an officer, has any ownership, leasehold, or other possessory or financial interest.
- (G) **Member's determination regarding participation in commission action:** If a commission member determines an agenda item to be a potential conflict of interest, the member should refrain from any MHTC discussion and/or vote regarding matters such as, but not limited to, award of a procurement contract, request for approval of route alignment, authority to contract with a design consultant, approval of detailed design plans, approval of detailed right of way plans, award of a construction contract, and the like.
- (3) **Procedure for disclosure by attorney MHTC members regarding legal representation by their law firms.**
- (A) **Commission member disclosure:**
1. **Representation by another attorney in the member's law firm.** When a commission member who is an attorney becomes aware that another member of his or her law firm represents an interest that is or may be adverse to MHTC, MoDOT and/or a MoDOT employee acting in his/her official capacity, the commission member should disclose the representation in a letter to the chief counsel stating that he or she is not and will not become personally familiar with the facts or legal strategy of this representation by the member's law firm and will not personally participate in any future discussion by or decision of MHTC regarding the matter under representation.
 2. **Representation by the member.** When a commission member who is an attorney becomes aware that he/she personally represents an interest that is, or may be, adverse to MHTC, MoDOT and/or a MoDOT employee acting in his/her official capacity, the commission member should disclose the representation in a letter to the chief counsel stating why the member believes the continued representation of the adverse or potentially adverse interest is permissible, or in the alternative, what action the member has taken or will take to withdraw from the representation.
- (B) **Chief Counsel's report:** The chief counsel will review the matter and advise the MHTC member of his or her opinion regarding the representation, and then place the matter on the MHTC meeting agenda as a disclosure report.
- (C) **Pecuniary gain:** The commission member should avoid participating in any pecuniary gain realized by his or her law firm from the representation to avoid any potential or appearance of conflict of interest.
- (4) **Real property acquisition procedure:** When a member individually or a business entity in which the member is an officer has any ownership, leasehold or other possessory or financial interest in real property for which an offer of just compensation will be made so that it may be acquired by MHTC for a project, the following procedure should be used by the commission member and shall be followed by MoDOT staff and special conflicts counsel.

- (A) **Fee appraisal(s):** The district will have a preliminary estimate of damages in a fee study. If in the fee study, the apparent compensation is estimated to be \$500 or more, the district's right of way unit will have one or more fee appraiser(s) determine just compensation for the property to be acquired and the damage, if any, to the property's remainder. If the apparent compensation in the fee study is less than \$500, the appraisal will be prepared by district staff appraiser(s) and approved by district chief appraiser or right of way manager who is a certified appraiser.
- (B) **Central office review and approval:** If the approved offer is \$500 or more, a central office right of way reviewing appraiser or field liaison officer who is also a certified appraiser will review the appraisal(s) and determine the approved offer of just compensation.
- (C) **FHWA review and approval:** MoDOT staff will secure review and approval of the appraisal(s) and the approved offer of just compensation from the Federal Highway Administration.
- (D) **MHTC review and approval:** When the approved offer exceeds \$500, Section 105.454 (2), (3) RSMo. requires public notice before the sale of real property. Therefore, the right of way director shall place the matter on MHTC's open session meeting agenda for the Commission to review and finally approve the offer of just compensation (with the affected member abstaining from discussion and voting) prior to the offer being made to the commission member. To provide adequate public notice, the agenda item shall be styled: "Purchase of Real Property Interest from Commissioner _____." However, if the approved offer does not exceed \$500, MHTC review and approval is unnecessary.
- (E) **Offer of just compensation to MHTC member:** The approved offer will then be made by the district's right of way department to the member, or the corporation or entity for which the member is an officer, or his/her/its authorized representative. However, the member/corporation/entity will be encouraged to refuse the offer and go through condemnation to avoid any appearance of impropriety if the offer is more than \$10,000. Provided further, however, if the offer is \$10,000 or less, the member/corporation/entity need not be encouraged to go through condemnation and may execute a deed for the real property in exchange for the approved offer.
- (F) **Condemnation:** If the MHTC member agrees to the condemnation, the parcel will be condemned at the first opportunity by special conflicts counsel approved by MHTC (with the affected member abstaining from discussion and voting).

- (G) **Settlement:** Once the condemnation commissioners appointed by the circuit court have set a value for the property, if that value is acceptable to all parties, a proposed settlement in the amount of the condemnation commissioners' award should be presented to the court for its review, approval, and entry of a judgment, but the court shall be requested by the special conflicts counsel to delay its action until after the member's term ends to avoid any appearance of impropriety.
- (H) **Jury trial:** Should either party not agree with the value established by the condemnation commissioners and file exceptions to the condemnation commissioners award, the special conflicts counsel should prepare the case for trial, but shall request the circuit court to delay the jury trial until after the commission member's term expires to avoid any appearance of impropriety. The final price for the property will be that determined by jury verdict and the court's final judgment after appeal, if any.
- (I) **Rule 17:** Should the circuit court refuse under section (4)(G) or (4)(H) above to delay the action under Missouri Supreme Court Administrative Rule 17, the special conflicts counsel shall consult with MHTC in closed meeting regarding the appropriate course of action (with the affected member being excluded from the meeting).

**SUMMARY OF APPLICABLE ETHICS STATUTES
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(1) General financial interest statement statutes

- 105.483 Financial interest statements-who shall file, exception.
- 105.485 Financial interest statements-form-contents-political subdivisions, compliance.
- 105.487 Financial interest statements-filed, when, exception.
- 105.489 Financial interest statements-to be kept with filing officer.
- 105.491 Executive director of commission-duties.
- 105.492 Penalties.
- 105.963 Assessments of candidates, campaign disclosure reports-notice-penalty-assessments of financial interest statements-notice-penalties-effective date.

(2) General conflict of interest and lobbying statutes

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- 105.452 Prohibited acts by elected and appointed public officials and employees.
- 105.454 Additional prohibited acts by certain elected and appointed public officials and employees, exceptions.
- 105.466 Exceptions to applicability of sections 105.450 to 105.458, 105.462 to 105.468, and 105.472 to 105.482.
- 105.470 Definitions.
- 105.472 Violation of law-complaint-oath.
- 105.473 Duties of lobbyist-report required, contents-exception-penalties.
- 105.478 Penalty.

(3) Specific conflict of interest statutes applicable to MHTC members

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(A) Motor carrier and railroad regulation

- 226.008 Responsibilities and authority of highways and transportation commission-transfer of authority to department of transportation.
- 622.120 Administrative law judges and employees, oath, eligibility for office.
- 622.130 Prohibition against solicitation and gifts-penalties for violation, misdemeanor.
- 622.480 Penalty for violating state law or an order of division-violations are separate and distinct offenses-carrier's liability for acts of officers and agents.

(B) Political fundraising

- 226.033 Prohibitions on political fundraising for highway and transportation commissioners appointed after March 1, 2003.

(C) Highway construction, maintenance, funding and insurance

- 226.090 Commissioners and employees-oath-bond-selection and removal of employees to be without regard to political affiliation.

(4) Specific removal statutes applicable to MHTC members

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- 226.030 Number of members-qualifications-term-removal-compensation.

NOTES:

¹[Brackets] indicate material proposed for deletion and underscoring indicates new material for addition.

²A copy of the actual statutes consists of 24 pages and is available upon request from the chief counsel.

Commission members should be familiar with the relevant and applicable ethics statutes:

(1) **General financial interest statement statutes:** Sections 105.483 to 105.492 and 105.963 RSMo. 2005, as amended, are applicable to certain state officials and decision making public servants including MHTC members and MoDOT management require MHTC members to file annual financial interest statements with the Missouri Ethics Commission which are then public records.

- o Section 105.485 RSMo 2005 requires commission members in their annual statements to disclose specified information for the member, their spouse, and the member's dependent children, including, but not limited to:
 - o annual income of \$1,000 or more from an employer (§105.485.2(1));
 - o the identity of any business entity³ in which the member has an ownership interest;
 - o except that for closely held corporations or limited partnerships, no disclosure is required if the member owns less than 10% of any outstanding stock or limited partnership units; and
 - o further except that for any publicly traded corporation or limited partnership which is listed on a regulated stock exchange or automated quotation system, no disclosure is required where the member owns less than 2% of any class of outstanding stock, limited partnership units or other equity interests unless the member receives \$1,000 or more income per year from such business entity which would then require disclosure (§105.485.2(2), (3));
 - o the name and address of each business entity in which the member owns stock, bonds, or other equity interest with a value in excess of \$10,000 except that such member does not need to report interests in publicly traded corporations or limited partnerships listed on a regulated stock exchange or automated quotation system nor interests in any qualified plan/annuity pursuant to the Employees' Retirement Income Security Act (§105.485.2(5));
 - o the location and property tax classification of any real property in Missouri owned (or leased for more than 10 years) other than the member's residence, having a fair market value of \$10,000 or more (§105.485.2(4));
 - o the identity of each corporation for which the member served in the capacity of a director, officer or receiver (§105.485.2(6));
 - o the name and address of each not-for-profit corporation, organization or union, whether incorporated or not, except for not-for-profit corporations formed to provide church services, fraternal organizations, or service clubs in which such person was an officer, director, employee or trustee but which the member draws no remuneration, as well as a general description of the nature and purpose of the organization (§105.485.2(7));
 - o the name and address of each source from which the member received a gift or gifts, or honoraria or honorarium in excess of \$200 in value per source during the year covered by the statement other than gifts from family members within the third degree of consanguinity or affinity and gifts construed to mean political contributions otherwise required to be reported, or gifts of hospitality such as food, beverages, or admissions to social, art, or sporting events. For purposes of this section, a gift would include gifts to or by creditors of the member for the purpose of canceling, reducing or otherwise forgiving the indebtedness of the member to that creditor (§105.485.2(8));

³ Business entity means any corporation, association, firm, partnership, proprietorship, or business entity of any kind or character (§105.450(2) RSMo).

- o the lodging and travel expenses provided by any third person for expenses incurred outside the state of Missouri whether by gift or in relation to the duties of the member's office with exceptions for travel for which the official may be reimbursed, paid by family members, and the like (§105.485.2(9));
- o the assets in a revocable trust (§105.485.2(10)); and
- o the name, position, and relationship of any relative within the first degree of consanguinity or affinity to the member who: (1) is employed by the state of Missouri, by a political subdivision of the state; (2) is a lobbyist; or (3) is a fee agent of the Department of Revenue (§105.485.2(11)).
- o Violation of these sections may result in a member's loss of compensation, suspension, removal from office, and/or a daily late filing fee (\$10/day) §105.492 and 105.963.

(2) General conflict of interest and lobbying statutes:

- o Section 105.452 RSMo 2000 and Section 105.454 RSMo. 2005 are general conflict of interest statutes applicable to all state officials and employees including MHTC members and MoDOT employees. These statutes prohibit actual conflicts of interest including, but not limited to:
 - o favorably acting or refraining from acting on any matter or using decision making authority to obtain financial gain (§105.452(1), (4) and (5) RSMo. 2000);
 - o disclosing and/or using confidential information obtained in his/her official capacity in any matter with the intent to result in financial gain (§105.452(2) and (3) RSMo. 2000);
 - o performing any service for an agency in which he/she is an officer or employee or has supervisory authority for payment in excess of \$500 per transaction or [\$1500] \$5000 per year without competitive bidding (§105.454(1), (3) RSMo. 2005); and
 - o selling or leasing any property⁴ to an agency in which he/she is an officer or employee or has supervisory authority over for payment in excess of \$500 per transaction or [\$1500] \$5000 per year without competitive bidding (§105.454(2), (3) RSMo. 2005). However, this provision does not apply to property that is condemned by the agency from its officer or employee (§105.466.3 RSMo. 2005).
- o Sections 105.470 RSMo 2000 defines an “executive lobbyist” as a person who attempts to influence the actions of the executive branch of government, including a commission like MHTC. The conduct of executive lobbyists is regulated and for things like food and beverages, fees that are waived or reduced, gifts, and transportation costs, expenditures made by an executive lobbyist in lobbying appointed officials, like MHTC members, must be reported to the Missouri Ethics Commission and are available for public inspection. For example, gifts of baseball tickets, meals and greens fees fall within the definition of “expenditure” and must be reported by the lobbyist; not the MHTC member, unless the ticket, meal, or green fee is necessary for the MHTC member to perform his/her duty as a MHTC member when participating in a ceremony, public presentation or official commission meeting.
- o A first violation of these sections is a Class B misdemeanor, but subsequent violations are Class D felonies. Section 105.478 RSMo. 2000.

⁴ Property includes both real property and personal property. Real property includes land or real estate including whatever is erected on, growing on, or affixed to the land. Personal property includes all property that is not real property, including corporeal personal property such as products, equipment, machinery, tools, autos, merchandise, animals, etc., and incorporeal personal property such as stocks, bonds, annuities, patents, copyrights, etc.

(3) Specific conflict of interest statutes applicable to MHTC members:

- (A) **Motor carrier and railroad regulation**--Sections 622.120 and 622.130 RSMo. 2000, and Section 226.008.3 RSMo 2002, as amended, apply to MoDOT and its employees as a result of the 2002 One Stop merger and prohibit certain conflicting acts and financial interests.
- o Section 226.008.4 abolished the division of motor carrier and railroad safety within the department of economic development.
 - o Pursuant to Section 226.008.3, all the powers, duties and functions of the division of motor carrier and railroad safety under state law, including Chapter 622 RSMo, were transferred to MoDOT, which is governed by MHTC.
 - o In the opinion of the chief counsel, section 622.120 prohibits MHTC from appointing anyone to an office or MoDOT from employing anyone in a position involved in the regulation of motor carriers or railroads who holds any official relation to, owns stocks or bonds therein or has any pecuniary interest in any common carrier, railroad corporation, street railroad corporation, transportation of freight or property company, carrier, corporation or person subject to any of the provisions of chapters 387, 388, 389, 390, 391 or 622 RSMo.
 - o Section 622.130, in the opinion of the chief counsel, prohibits any person appointed by MHTC to an office or employed by MoDOT in a position involved in the regulation of motor carriers or railroads from recommending, directly or indirectly, to any common carrier or other person subject to regulation, any person for employment. Also, any regulated person or entity is forbidden from providing any MHTC appointee or MoDOT employee any transportation that is free or at a reduced rate, or any present, gift, entertainment, or gratuity of any kind.
 - o Any MHTC appointee or MoDOT employee who violates section 622.130 is subject to removal from office or employment and further is guilty of a misdemeanor, and upon conviction, shall be punished by a fine not exceeding \$1,000 or imprisonment not exceeding one year, or by both fine and imprisonment. Section 622.130.2 and .4 RSMo.
- (B) **Political fund raising**--Section 226.033, RSMo 2003 provides that any MHTC member appointed or reappointed after March 1, 2004 shall not: (1) host or manage a political fund-raiser or solicit funds for any candidate who is seeking a statewide or nationally elected office; or (2) serve on the board or chair any political action committee, political party committee, or continuing committee.
- (C) **Highway construction, maintenance, funding and insurance**--
- o Section 226.090 RSMo. 2000 prohibits actual conflicts of interest and provides, in part, that no MHTC member or MoDOT employee shall, directly or indirectly, have any pecuniary interest in, or act as agent for, the sale of road or bridge building material, equipment, tools, machinery or supplies, or in any contract for the construction or maintenance of state highways or bridges, or the financing thereof, or in any performance bond or workers' compensation or any other insurance furnished to MHTC, or insurance furnished to any person, firm or corporation contracting with MHTC.
 - o 226.090 states that a violation of its provisions is an unspecified misdemeanor. Pursuant to section 557.021 RSMo. 2000, unspecified misdemeanors carry the penalty of a class A misdemeanor.

(4) Specific removal statute applicable only to MHTC members: Section 226.030 RSMo. 2004, as amended, provides that any commission member may be removed by the governor if the governor is fully satisfied of the commission member's inefficiency, neglect of duty, or misconduct in office.

